Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term, 1978

No. 78-690

KATHLEEN R. REITER,

Petitioner,

v.

SONOTONE CORPORATION, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

OBJECTION OF RESPONDENTS TO MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE BY PLAINTIFFS IN KENNEDY SMITH v. TOYOTA MOTOR SALES U.S.A., AND FIVE RELATED CASES AND PLAINTIFFS IN DONNA JEAN WEINBERGER v. FEDERATED DEPARTMENT STORES AND RELATED CASES

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Plaintiffs in *Kennedy Smith v. Toyota Motor Sales U.S.A., Inc. and Five Related Cases,*[1] and plaintiffs in *Donna Jean Weinberger v. Federated Department Stores and Related Cases,*[2] (hereinafter referred to collectively as "Plaintiffs") have moved this Court under Rule 42(3) of the Rules of the United States Supreme Court for leave to file a brief as *amici curiae* in this case. Petitioner has consented to the filing of said brief. Respondents have refused to consent and object to the filing of such brief on the grounds that Plaintiffs' interest in this case is no different from that of Petitioner[3] and Plainiffs have failed to set forth facts or questions of law that have not been, or are not likely to be, presented by the Petitioner and Respondents, as required under Rule 42(3) of the Rules of the United States Supreme Court.

The Solicitor General has filed a brief for the United States as *amicus curiae* in support of the Petitioner's position. In addition, the Attorneys General for the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado,

[1]United States Court of Appeals for the Ninth Circuit, Docket Nos. 77-1849, 77-1850, 77-1851, 77-1852, 77-1724, and 77-1725. The named plaintiffs are: Kenneth Smith, Barry S. Kohn, Jonathan Kilburn Carr, Richard P. Gardner, Charleen Pellar, Marla Bussard, Marc D. Goldberg, Robert J. Berman, Debra Berman and Alan Blau.

[2]United States Court of Appeals for the Ninth Circuit, Docket Nos. 77-1547, 77-1548, 77-1549, 77-1550, and 77-1551. The named plaintiffs are: Donna Jean Weinberg, Eleanor Eisenberg, Sandra A. Musser, June Morgan, David M. Kimmel.

[3]Each Plaintiff is a non-business consumer. Each Plaintiff has brought a treble damage action under 15 U.S.C. §15 against certain firms for alleged unlawful price-fixing of goods purchased by such Plaintiffs. The Defendant firms moved to dismiss the complaints filed on the grounds that the Plaintiffs lacked standing because as retail non-business consumers, they had not been injured in their "business or property." The motions were granted. Appeals from those dismissals were argued before the Ninth Circuit and orders have been entered staying disposition of the appeals pending the decision in this case.

Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island and Providence Plantations, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming and the Commonwealths of Kentucky, Pennsylvania and Virginia have filed a brief as *amici curiae* in support of Petitioner. In view of the filing of such briefs *amici curiae,* it does appear that the Petitioner's position will be well represented. The Plaintiffs' motion for leave to file a brief *amici curiae* should be denied, because the Plaintiffs have no special or unusual interest in the outcome of this case different from that of the Petitioner's, Plaintiffs interest is well represented by Petitioner and other *amici curiae,* and Plaintiffs' brief is substantially duplicative and repetitious of the efforts of others.

Respectfully submitted,

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